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TO RUEHC/SECSTATE WASHDC 7182
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RUEHLH/AMCONSUL LAHORE 4061
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RUEHPW/AMCONSUL PESHAWAR 4608
RUEHIL/AMEMBASSY ISLAMABAD 3707
RHEBAAA/DEPT OF ENERGY WASHDC
RUEATRS/DEPT OF TREASURY WASHDC
RULSDMK/DEPT OF TRANSPORTATION WASHDC
RHMFIUU/FAA NATIONAL HQ WASHINGTON DC
RUEHRC/DEPT OF AGRICULTURE WASHDC

UNCLAS SECTION 01 OF 02 NEW DELHI 003429

SIPDIS

SENSITIVE
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USDOC FOR ITA/MAC/OSA/LDROKER/ASTERN/KRUDD
DEPT OF ENERGY FOR A/S KHARBERT, TCUTLER, CZAMUDA, RLUHAR
DEPT PASS TO USTR DHARTWICK/CLILIENFELD/AADLER
DEPT PASS TO TREASURY FOR OFFICE OF SOUTH ASIA ABAUKOL
TREASURY PASS TO FRB SAN FRANCISCO/TERESA CURRAN
STATE FOR SCA/INS MICHAEL NEWBILL AND EB/TRA JEFFREY HORWITZ AND TOM
ENGLE

E.O. 12958: N/A
TAGS: [EAGR](#) [EFIN](#) [EINV](#) [ETRD](#) [ENRG](#) [SENV](#) [IN](#)
SUBJECT: NEW DELHI WEEKLY ECON OFFICE HIGHLIGHTS

REF: NEW DELHI 5942

11. (U) Below is a compilation of Economic highlights from Embassy
New Delhi for the week of July 23 - 27, 2007.

POSITIVE GOI NOISES ON DOW AND MCDERMOTT

12. (SBU) There are indications that the legacy issues of Dow and
McDermott may be moving closer to resolution. Econ discussions with
a senior Dow India official in late July, as well as a July 27 media
report, indicate that the legacy issues of GOI involvement in a
court case against Dow and the GOI's unwillingness to pay \$100
million owed to McDermott International may be sent for high-level
discussion in the Trade and Economic Relations Committee (TERC) and
the Cabinet Committee on Economic Affairs (CCEA).

13. (SBU) In the case of Dow, the chemical company had purchased
some of the assets of Union Carbide in 2001, 17 years after the
industrial disaster in Bhopal. Victims' rights groups and NGOs have
since been involved in public interest litigation (PIL) against Dow
(as well as other defendants, including the state and central
governments). As part of the ongoing PIL, the GOI Ministry of
Chemicals filed a request for a court order forcing Dow to set aside
a Rs100 crores (\$25 million) bond as an indemnity for potential
clean up costs at the disaster site, despite a strong legal case
that Dow has no liability. During the CEO Forum event in October
2006, GOI officials including Commerce Minister Nath and Planning
Commission Deputy Chairman Montek Singh Ahluwalia stated that they
welcomed further Dow investment in India and did not believe that
Dow was responsible for the disaster site clean-up. Dow's sole
request to the GOI during the PIL has been for the Ministry of
Chemicals to withdraw the application for remediation costs based on
Dow not being responsible for the Bhopal tragedy. Dow has not asked
the GOI to interfere in the PIL - only that it withdraw its separate
application for the \$25 million deposit.

14. (SBU) In the case of McDermott, the company had built oil
platforms for GOI-owned Burn Standard (BSCL) in the late 1980s.
BSCL did not fully pay for those platforms, triggering a lengthy and

complex litigation. After many years of courts cases and arbitration, the Indian Supreme Court dismissed a petition by BSCL in October 2006, exhausting BSCL's final legal avenue to challenge an arbitration award in favor of McDermott. BSCL's liability to McDermott now totals \$100 million, with additional interest accumulating at a rate of \$14,500 per day. In January 2007, then-Cabinet Secretary Chaturvedi indicated to the Ambassador that there was consensus within the Government that McDermott should be paid. Since then, the GOI has been stepping back from this position, suggesting that McDermott may have to get in line with other creditors of Burn Standard.

15. (SBU) Despite significant USG and company efforts (by both Dow and McDermott), including a number of high-level interventions by the Ambassador and visiting Cabinet officials, these cases have lingered without positive GOI action. On July 27, the senior Dow official alerted Econoff to a press report in the Economic Times indicating that the issue of Dow and McDermott would be referred to TERC and CCEA, respectively. Dow had met with newly-appointed chemical secretary Arun Ramanathan (replacing Satwant Reddy) on July 24. Dow's opinion was that Ramanathan, though not fully up to speed on the case, was unlikely to take actions to drag the case out, unlike his predecessor. Similarly, the news in the Economic Times that the Ministry of Heavy Industries has circulated a note to the CCEA to make a final decision on the McDermott case is welcome, if true. Embassy New Delhi will continue to forcefully press for a resolution of these two cases, both on their own merits, and as a GOI signal that US-India economic relations are key to the bilateral agenda.

RE-BIDDING FOR SASAN POWER PROJECT

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16. (U) The Ministry of Power in early 2006 launched its "Ultra-Mega Power Project (UMPP) proposal to attract domestic and foreign investors to build seven coal-fired thermal power plant complexes of 4,000-MW each, based on "super-critical" reactor technology and using either domestic coal at pithead sites or imported coal at coastal sites. In December 2006, the pithead-coal based Sasan Power Ltd. UMPP project in power-hungry Madhya Pradesh was awarded to a consortium of the sole foreign bidder Globeleq-Singapore and Hyderabad-based Lanco Infratech, which bid "Rs 1.19 per unit" -- about US 3.0 cents per kilowatt-hour (kwh) -- in the tariff-based tender. The consortium thereby beat out Reliance Energy Generation Ltd (Rs 1.296/kwh), Jaiprakash Associates (Rs. 1.65/kwh), Jindal Steel and Power (Rs 1.799/kwh) and the GOI-owned National Thermal Power Corporation (NTPC) (Rs 2.12/kwh). The 4,000-MW Sasan project is expected to cost 16,500 to 20,000 crore (about US\$4.1 billion to US\$5 billion). U.S. industry sources told us the Globeleq bid was unrealistically low and NTPC had claimed its twice-as-high offer was the minimum realistic price.

17. (U) A special "Empowered Group of Ministers (EGoM) around July 24, 2007 declared the winning Globeleq-Lanco bid to be "null and void" due to an unapproved change in ownership structure for Sasan Power. Globeleq Ltd had sold off its Globeleq-Singapore subsidiary with 40% going to Jindal Steel and Power Company, resulting in Sasan Power being owned 72% by Lanco and 28% by Jindal, a previously unsuccessful bidder. Globeleq-Singapore had not submitted the requisite guarantees from its original parent company and Lanco by itself had neither the technical nor financial qualifications. The EGoM headed by Power Minister Sushil Kumar Shinde ruled July 26 that the three remaining qualified bidders -- Reliance, Jaiprakash, and NTPC -- should submit revised bids for an award decision by August 4, instead of simply awarding the Sasan project to the second highest original bidder -- Anil Dhirubhai Ambani Group (ADAG)'s Reliance Energy Generation Ltd.

NATIONAL SECURITY SCREENING OF INVESTMENT

18. (U) Press reports this week indicated that differences among government ministries continue over what kind of provisions should be instituted to screen foreign direct investment (FDI) for national

security threats. The Economic Times reported on July 23 that the National Security Council Secretariat (NSCS) had recommended new, umbrella legislation to be modeled on the Exon-Florio Act in the US.

However, the Indian Express stated on July 27 that the Ministries of Finance and External Affairs were against such legislation, which the NSCS had previously proposed be called the National Security Exception Act.

¶9. (U) Currently under discussion among the ministries is to determine certain categories of investment that would trigger a security review, such as entities on money laundering and terrorist lists, investments into "sensitive sectors" which the NSCS has said previously should include ports and telecom, and thirdly, sensitive locations, such as sites near international borders. Indian Express claimed that the other ministries prevailed in refusing to name countries, such as China, as banned investment sources, concerned about the economic and political impact of such targeting. Post will continue to monitor the development of a consensus regulation or legislation regarding national security-based screening of FDI.

¶10. (U) Visit New Delhi's Classified Website:
<http://www.state.sgov/p/sa/newdelhi>

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